



The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS

DATE: July 8-9, 2013

SUBJECT: Credit Course Repetition and Apportionment for Course Enrollment (Second Reading)		Item Number: 2.4	
		Attachment: Yes	
CATEGORY:	Academic Affairs	TYPE OF BOARD CONSIDERATION:	
Recommended By:	 Barry Russell, Vice Chancellor	Consent/Routine	
		First Reading	
Approved for Consideration:	 Brice W. Harris, Chancellor	Action	X
		Information	

ISSUE: Whether to adopt proposed clean-up changes the California Code of Regulations, title 5 section 55040 et seq. concerning course repetition and section 58161 concerning apportionment for course enrollment so that the intent of changes affecting multiple enrollments in a course by a student previously adopted by the Board of Governors in 2011 and 2012 are accurately reflected in title 5.

BACKGROUND: Changes to proposed regulations concerning course repetition were adopted by the Board of Governors in July 2011 and July 2012. Most significantly those changes limited the number of times a student could enroll in the same course and limited the types of courses that colleges could designate as repeatable. In addition, those changes limited the apportionment a college could receive for student enrollments in a single course. The changes currently proposed were presented to the Board of Governors for a first reading on May 6, 2013.

RECOMMENDED ACTION: It is recommended that the Board of Governors adopts the following resolution:

Be it Resolved: The Board of Governors of the California Community Colleges, acting pursuant to Education Code sections 66700, 70901(c) and 70901.5, hereby:

- accepts the comment and proposed response to the proposed regulatory action;
- approves the proposed regulation changes;

- directs the chancellor to file the regulations with the Secretary of State and submit the regulation to the Office of Administrative Law for printing unless the Department of Finance determines the regulations would create a state-mandated local program cost and is unable to certify to the Board of Governors and the Legislature that a source of funds is available to reimburse that cost as set forth in Education Code section 70901.5(a)(6);
- authorizes the chancellor to take any necessary ministerial action to process these regulations; and
- adopts the regulations effective thirty days after filing with the Secretary of State and submission of the regulations to the Office of Administrative Law.

The proposed regulations are presented to the Board of Governors for approval and adoption. The Board of Governors held a public hearing in May and has responded to comments.

ANALYSIS: Changes to the California Code of Regulations, title 5 of adopted by the Board of Governors in July 2012 (effective January 2013) limited the apportionment a district could receive for the attendance of a student in credit courses that are related in content to four enrollments (six enrollments if quarters). (Cal. Code Regs., tit. 5, § 58161(d).) A course is related in content if the courses have “similar primary educational activities in which skill levels or variations are separated into distinct courses with different student learning outcomes for each level or variation.” (Cal. Code Regs., tit. 5, § 55000(l).) For example, beginning writing, intermediate writing and advanced writing are distinct courses of writing and are courses that are “related in content.”

The limitation on apportionment was intended to be the same as the student limitation on enrollment in courses that are related in content. However, the student limitation on courses that are related in content applies only to active participatory courses in physical education, visual arts or performing arts. (Cal. Code Regs., tit. 5, § 55040(c).) The failure to likewise specify that the apportionment limitation was also applicable to only active participatory courses in physical education, visual arts and performing arts was unintended and an oversight.

Not amending subdivision (d) to specify that the limitation on related course enrollment applies only to active participatory courses in physical education, visual arts and performing arts would have the absurd effect of limiting a student’s enrollment in courses such as history, mathematics and English, to only four enrollments if those courses have “similar primary educational activities in which skill levels or variations are separated into distinct courses with different student learning outcomes for each level or variation.” (Cal. Code Regs., tit. 5, § 55000(l).) California Code of Regulations, title 5, section 58161 is proposed to be amended to clarify that the “related course” apportionment limitations, like the student enrollment limitations, apply only to active participatory courses in physical education, visual arts and performing arts.

In addition, changes to title 5 adopted by the Board of Governors in July 2012 eliminated the ability of districts to designate physical education, visual arts, and performing arts courses as repeatable. However, section 55044 currently permits districts to allow students to enroll multiple times in courses offered for variable units on an open-entry/open-exit basis, including physical education, visual art, and performing arts courses. Proposed amendments to section 55040(b)(4) and section 55044 eliminate the authority of districts to allow students to repeat a physical education, visual

arts or a performing arts course because it is offered as variable unit course on an open-entry/open-exit basis. Further, proposed changes to section 58161 (f)(3) clarify that apportionment cannot be claimed for multiple enrollments by student in physical education, visual arts or performing arts pursuant to this section.

In section 55041 (repeatable courses), a change of the word “special” to “extenuating” circumstances proposed in section 55041(a)(3) is to use parallel language to the title of the section referred to, course repetition due to extenuating circumstances. (Cal. Code Regs., tit. 5, § 55045.) Also in section 55041, language is proposed to be added to subdivision (c) to clarify that if a course is repeated pursuant to another section, such as to alleviate a substandard grade, the district policy may permit the previous grade(s) to be disregarded. This proposed change is simply to clarify existing law, not to change it.

In section 55042 (course repetition to alleviate substandard academic work) subdivision (c) is proposed to be amended to clarify that students receiving a substandard grade in a course properly designated as repeatable pursuant to section 55041 cannot exceed the number of enrollments in the course permitted by section 55041 in order to alleviate the substandard grade.

Last, all definitions were consolidated in section 55000 rather than scattered throughout Chapter 6, thus we propose to correct a reference in section 55046, subdivision (a) to the consolidated definition section.

The proposed regulation changes are included as attachment 1. The summary of the proposed changes is included as attachment 2. Public comment and proposed responses are attached as attachment 3.

ATTACHMENT 1

BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES PROPOSED REVISIONS TO TITLE 5 REGULATIONS: CREDIT COURSE REPETITION AND APPORTIONMENT OF COURSE ENROLLMENT

1. Section 55040 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 55040. District Policy for Course Repetition.

(a) The governing board of each community college district shall adopt and publish policies and procedures pertaining to the repetition of credit courses. Such policies and procedures shall not conflict with section 55025 or Education Code section 76224, pertaining to the finality of grades assigned by instructors, or with subchapter 2.5 (commencing with section 59020) of chapter 10 of this division, pertaining to the retention and destruction of student records.

(b) The policies and procedures adopted pursuant to subdivision (a) may,

(1) designate certain types of courses as “repeatable courses” consistent with the requirements of section 55041.

(2) permit a student to repeat a course in an effort to alleviate substandard academic work consistent with the requirements of section 55042.

(3) permit or require a student to repeat a course due to significant lapse of time consistent with the requirements of section 55043.

(4) permit a student to repeat a portion of a course, other than a physical education, visual arts, or performing arts course, offered for variable units on an open-entry/open-exit basis ~~course~~ which the student previously completed only under the circumstances described in section 55044.

(5) permit a student to repeat a course which is not designated as a repeatable course, regardless of whether substandard academic work was previously recorded, where the district determines, consistent with section 55045, that there are extenuating circumstances which justify the repetition.

(6) permit a student to repeat a course in occupational work experience under the circumstances described in section 55253. When an occupational work experience course is repeated pursuant to that section, the grade received each time shall be included for purposes of calculating the student's grade point average.

(7) permit a student with a disability to repeat a special class for students with disabilities any number of times based on an individualized determination that such repetition is required as a disability-related accommodation for that particular student for one of the reasons specified in section 56029. The district policy may allow the previous grade and credit to be disregarded in computing the student's GPA each time the course is repeated.

(8) permit a student to repeat a course determined to be legally mandated as defined in section 55000, regardless of whether substandard academic work has been recorded. Such courses may be repeated for credit any number of times. The governing board of a district

may establish policies and procedures requiring students to certify or document that course repetition is legally mandated.

(9) permit a student to petition the district to repeat a course as a result of a significant change in industry or licensure standards such that repetition of the course is necessary for employment or licensure. Such courses may be repeated for credit any number of times. The governing board of the district may establish policies and procedures requiring students to certify or document that there has been a significant change in industry or licensure standards necessitating course repetition.

(c) The policies and procedures adopted by the governing board of each community college district pursuant to subdivision (a) may not permit student enrollment in active participatory courses, as defined in section 55000, in physical education, visual arts or performing arts that are related in content, as defined in section 55000, more than four times for semester courses or six times for quarter courses. This limitation applies even if a student receives a substandard grade or "W" during one or more of the enrollments in such a course or petitions for repetition due to extenuating circumstances as provided in section 55045.

(d) When course repetition occurs pursuant to this section, the student's permanent academic record shall clearly indicate any courses repeated using an appropriate symbol and be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(e) Notwithstanding the limits set forth above, apportionment will be limited as set forth in section 58161.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

2. Section 55041 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 55041. Repeatable Courses.

(a) Districts may only designate the following types of courses as repeatable:

(1) Courses for which repetition is necessary to meet the major requirements of CSU or UC for completion of a bachelor's degree. The governing board of a district must retain supporting documentation that verifies that the repetition is necessary to meet the major requirements of CSU or UC for completion of a bachelor's degree. The supporting documentation must be retained by the district as a Class 3 record basic to audit as required by section 59020 et seq.;

(2) Intercollegiate athletics, as defined in section 55000; and

(3) Intercollegiate academic or vocational competition, as defined in section 55000, where enrollment in the course and courses that are related in content, as defined in 55000, is limited to no more than four times for semester courses or six times for quarter courses. This enrollment limitation applies even if the student receives a substandard grade or "W" during one or more of the enrollments in such a course or petitions for repetition due to ~~special~~extenuating circumstances as provided in section 55045.

(b) The district must identify all courses which are repeatable and designate such courses in its catalog.

(c) When a course is repeated pursuant to this section, the grade received each time shall be included for purposes of calculating the student's grade point average, except if the course is repeated pursuant to another section of this article that permits district policy to allow the previous grade(s) to be disregarded.

(d) Notwithstanding the limitations above, apportionment will be limited as set forth in section 58161.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

3. Section 55042 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 55042. Course Repetition to Alleviate Substandard Academic Work.

(a) The district policies and procedures on course repetition adopted pursuant to section 55040 may permit a student to repeat a course in an effort to alleviate substandard academic work.

(b) If a student repeats a course which is not designated as a repeatable course and receives a satisfactory grade, then he or she may not repeat the course again pursuant to this section and any further repetition of the course must be authorized by another provision of this division. If a student repeats the course and receives another substandard grade, the district policy may permit the student to repeat the course one additional time in an effort to alleviate substandard work. District policy may permit a student to petition to repeat a course for which three substandard grades have been assigned, provided apportionment is not claimed pursuant to section 58161. The first two substandard grades may be excluded in computing the student's GPA if the student repeats the class two or more times.

(c) If a student repeats a repeatable course and a substandard grade has been recorded, district policy may allow the previous grade and credit to be disregarded provided that no additional repetitions are permitted beyond those enrollment limits otherwise allowed by specified in section 55041(c)(6). No more than two substandard grades may be alleviated pursuant to this section.

(d) Notwithstanding section 55041, policies and procedures related to course repetition to alleviate substandard academic work shall:

(1) permit repetition of any course which was taken in an accredited college or university and for which substandard academic work is recorded;

(2) indicate any specific courses or categories of courses where repetition pursuant to this section is not permitted; and

(3) in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

4. Section 55044 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 55044. Repetition of Variable Unit Courses.

(a) Except for active participatory courses in physical education, visual arts, or performing arts, if a community college district offers credit courses for variable units on an open-entry/open-exit basis pursuant to section 58164, the district policies and procedures on course repetition adopted pursuant to section 55040 shall provide that a student may enroll in the course as many times as necessary to complete one time the entire curriculum of the course as described in the course outline of record. District policy may not permit students to enroll more than one time in an active participatory course in physical education, visual arts, or performing arts pursuant to this section. However, the district policy may not permit the student to repeat any portion of the curriculum for the course, unless:

- (1) the course is required for legally mandated training;
- (2) the course is a special class for students with disabilities which the student needs to repeat for one of the reasons described in section 56029;
- (3) repetition of the course to retake a portion of the curriculum is justified by extenuating circumstances pursuant to section 55045; or
- (4) the student wishes to repeat the course to alleviate substandard work recorded for a portion of the curriculum as authorized pursuant to section 55042.

~~(b) Notwithstanding subdivision (a), each time a student enrolls in a physical education activity course offered on an open-entry/open-exit basis, regardless of the number of units for which the student enrolls, the enrollment shall count as a repetition of the course for purposes of sections 55041 and 58161.~~

(c) When course repetition of a portion of a course is permitted under the circumstances described in subdivision (a), the district policy may allow the previous grade and credit to be disregarded in computing the student's GPA.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

5. Section 55046 of article 4 of subchapter 1 of chapter 6 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 55046. Academic Renewal Without Course Repetition.

(a) The governing board of each community college district shall adopt and publish policies and procedures pertaining to the alleviation of previously recorded substandard academic work, as defined in section ~~55040~~ 55000, which is not reflective of a student's demonstrated ability. Such policies and procedures shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal procedures. When academic renewal procedures adopted by the district permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(b) Policies and procedures adopted pursuant to subdivision (a) shall not conflict with:

(1) section 55025 of this subchapter and Education Code section 76224, pertaining to the finality of grades assigned by instructors; or

(2) chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records.

(c) The policies and procedures adopted pursuant to subdivision (a) shall address all of the following:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded;

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation procedures;

(5) The procedures to be followed by students in petitioning for alleviation; and

(6) The personnel responsible for implementing the procedures.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

6. Section 58161 of article 5 of subchapter 2 of chapter 9 of division 6 of title 5 of the California Code of Regulations is amended to read:

§ 58161. Apportionment for Course Enrollment.

(a) A community college district may claim the attendance of students for enrollments in credit courses for state apportionment only if so authorized by this section and if all other requirements of this division are satisfied. For purposes of this section, the definition of enrollment found in section 55000 shall apply.

(b) A district may claim state apportionment for an enrollment in a credit course for the attendance of a student who receives a satisfactory grade, as defined in section 55000, one time unless an exception applies.

(c) A district may claim state apportionment for the attendance of students for enrollments totaling a maximum of three times per credit course and if all other requirements of this division are satisfied.

(d)(1) Notwithstanding subdivisions (b) and (c) of this section, a district may claim state apportionment for the attendance of students for enrollments in credit courses designated as repeatable, as provided in section 55041, ~~and courses that are related in content,~~ as defined in section 55000, for no more than four times for semester courses or six times for quarter courses. This limitation applies even if a student receives a substandard grade or "W" during one or more of the enrollments in such a course.

(2) Notwithstanding subdivisions (b) and (c) of this section, a district may claim state apportionment for the attendance of students in active participatory credit courses that are related in content, in physical education, visual arts or performing arts, as provided in section 55040 (c), for no more than four times for semester courses or six times for quarter courses. This limitation applies even if a student receives a substandard grade or "W" during one or more of the enrollments in such a course.

(e) Notwithstanding subdivisions (b), (c), (d) and (e) of this section, a district may claim state apportionment for one additional enrollment if all other requirements of this division are met and only in the following circumstances:

(1) The attendance of a student for an enrollment in a credit course resulting in that student's repetition of the credit course because the district determines pursuant to section 55043 that there has been a significant lapse of time of no less than 36 months since the student previously successfully completed the course, unless an exception to the 36 month requirement applies.

(2) The attendance of a student for an enrollment in a credit course which is a repetition of the credit course pursuant to section 55045 due to extenuating circumstances, if such credit course is not designated as repeatable pursuant to section 55041.

(f) Notwithstanding subdivisions (b), (c) and (d) of this section, a district may claim state apportionment for the attendance of students in credit courses for enrollments in the credit courses without limitation if all other requirements of this division are met and in the following circumstances:

(1) The attendance of a student in legally mandated training as provided in section 55040(b)(8).

(2) The attendance of a student with a disability may be claimed for state apportionment for each enrollment by that student in a credit special class as a disability-related accommodation which is justified by one of the circumstances described in section 56029.

(3) Except for active participatory courses in physical education, visual arts, and performing arts, the attendance of a student for each enrollment in a portion of a variable unit open entry/open exit credit course, that is necessary for the student to complete one time the entire curriculum of the course as described in the course outline of record, may be counted for state apportionment only to the extent that repetition of such courses is permitted pursuant to section 55044.

(4) The attendance of a student for each enrollment in a cooperative work experience course pursuant to section 55253.

(5) The attendance of a student withdrawing as a result of extraordinary conditions pursuant to section 55024(a)(10).

(6) The attendance of a student receiving a military withdrawal ("MW") pursuant to section 55024(d)(1).

(7) The attendance of a student withdrawing as a result of discriminatory treatment pursuant to section 55024(a)(8).

(8) The attendance of a student in a course as a result of a change in industry or licensure standards such that repetition of the course is necessary for employment or licensure as set forth in section 55040(b)(9).

(g) To the extent permitted by article 4 of subchapter 1 of chapter 6, a district may permit enrollment in credit courses beyond the limits set forth in this section, but such additional enrollments may not be claimed for state apportionment.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

ATTACHMENT 2
SUMMARY AND ANALYSIS OF PROPOSED CHANGES TO
CREDIT COURSE REPETITION AND APPORTIONMENT

§ 55040. District Policy for Course Repetition.

Consistent with changes made by the Board of Governors in July 2012 (and effective January 2013) to section 55041, changes are proposed to subdivision (b)(4) (and section 55044 below) to not allow students to repeat physical education, visual arts, and performing arts courses even if they are offered for variable units on an open-entry/open-exit basis.

§ 55041. Repeatable Courses.

In subdivision (a)(3), the word special is proposed to be changed to the term “extenuating,” for consistency.

In subdivision (c), language is proposed to be added to clarify that the grade received each time must be included for purposes of calculating the student’s grade point average unless another provision allows the grade to be disregarded, such as a repetition to alleviate substandard work (§ 55042 (c)), or a course repetition due to significant lapse of time (§ 55043(c)), etc....This proposed change is simply for clarification and is consistent with the preexisting interpretation of this section.

§ 55042. Course Repetition to Alleviate Substandard Academic Work.

Changes are proposed to subdivision (c) to clarify that students receiving a substandard grade in a course properly designated as repeatable pursuant to section 55041, cannot exceed the number of enrollments in the course permitted by section 55041 in order to alleviate the substandard grade.

§ 55044. Repetition of Variable Unit Courses.

Changes are proposed to subdivision (a) to not allow students to enroll more than one time in physical education, visual arts, or performing arts courses even if the course is offered for variable unit on an open-entry/ open-exit basis. This proposed change is consistent with changes that were made by the BOG in July 2012, eliminating the repeatability of physical education, visual arts, and performing arts courses.

Because colleges cannot allow students to enroll multiple times in these courses that are offered for variable unit on an open-entry/open-exit bases, the limitations set forth in subdivision (b) are not necessary, and thus subdivision (b) is proposed to be eliminated. Existing subdivision (c) is proposed to be re-lettered subdivision (b).

§ 55046. Academic Renewal Without Course Repetition.

Changes approved by the Board of Governors in July 2012 (and effective January 2013) consolidated the various sections of definitions throughout Chapter 6 in section 55000. Changes are proposed to subdivision (a) to correct a citation from a preexisting definition section to the existing consolidated definition section.

§ 58161. Apportionment for Course Enrollment.

Changes adopted by the Board of Governors in July 2012 (effective January 2013) limited the apportionment a district could receive for the attendance of a student in credit courses that are related in content to four enrollments (six enrollments if quarters). (§ 58161(d).) A course is related in content if the courses have “similar primary educational activities in which skill levels or variations are separated into distinct courses with different student learning outcomes for each level or variation.” (§ 55000(l).) This limitation was intended to be the same as the student limitation on enrollment in courses that are related in content. However, the student limitation on courses that are related in content applies **only to active participatory courses in physical education, visual arts or performing arts.** (§ 55040(c).) The failure to likewise specify that the apportionment limitation was also applicable to only active participatory courses in physical education, visual arts and performing arts was unintended and an oversight. Not amending subdivision (d) to specify that the limitation on related course enrollment applies only to active participatory courses in physical education, visual arts and performing arts would have the absurd effect of limiting student’s enrollment in courses such as history, mathematics, and English to only four enrollments if those courses have “similar primary educational activities in which skill levels or variations are separated into distinct courses with different student learning outcomes for each level or variation.” (§ 55000(l).)

For clarity, the apportionment limitations for courses that are properly designated as repeatable and for courses that are related in content and subdivided into (d)(1) and (d)(2) respectively.

Changes to subdivision (f) are proposed for consistency of the apportionment limits with the proposed changes to student limits for variable unit courses offered on an open entry/open-exit basis in physical education, visual arts, and performing arts as explained above in section 55044. Proposed changes to subdivision (f) would preclude districts from claiming apportionment in these courses for more than one enrollment pursuant to section 55044.

ATTACHMENT 3

Summary and Response to Comments Received During the Notice Period of April 25, 2013, through June 14, 2013, Inclusive.

Official notice of proposed changes to the California Code of Regulations, title 5, regarding credit course repetition and apportionment for course enrollment was published on April 25, 2013. The original proposed text was made available for public comment for at least 45 days from April 25, 2013, through June 14, 2013. The notice specified the process to comment on the proposed changes. No written comments were received during the comment period. A public hearing was held during the Board of Governors Meeting on May 6, 2013, at the Chancellor's Office. A comment from one person was heard. Pursuant to Standing Order 206, subdivision (b)(3), the Chancellor's Office has summarized the oral comment and proposed response below for adoption by the board.

Comment Received During the Public Hearing:

Wayne L. Organ, Music Chair and Academic Senate President of Contra Costa College.

Mr. Organ discussed the effect of the regulations limiting the courses that can be designated as repeatable on Hispanic students in his district. He noted that five students who were musically talented needed to be able to repeat music courses in order to catch up.

Proposed response: The proposed changes do not affect repeatable courses. The changes referred to by Mr. Organ were adopted by the Board of Governors in July 2012. Further, if district policy allows, some music courses may be able to be designated by Mr. Organ's district as repeatable if the courses are necessary to meet the major requirements of CSU or UC for completion of a bachelor's degree, and the district complies with the other requirements set forth in California Code of Regulations, title 5, section 55041(a)(1). If the courses are properly designated as repeatable, then the students would be able to enroll more than one time in the course.